

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CARMEN LIDIA JORGE, *et al.*,
Plaintiff,

v.

POLICE DEPARTMENT OF THE
COMMONWEALTH OF PUERTO
RICO, *et al.*,
Defendants.

CIVIL NO. 11-2268 (JAG)

THIRD MOTION REQUESTING ORDER

TO THE HONORABLE COURT:

COME NOW Co-Defendants José Figueroa-Sancha (“Figueroa-Sancha”), Iván Lebrón-Lebrón (“Lebrón”) and Leovigildo Vázquez (“Vázquez”), through the undersigned attorney, who very respectfully STATE and PRAY as follows:

1) On December 30, 2011, plaintiffs filed the case at bar alleging that PRPD officers used excessive force during the course of an arrest of three felony suspects (**Docket No. 1**). One of those felony suspects is Plaintiff E.F.J., who has by now reached the age of majority.

2) In essence, Plaintiff E.F.J. alleged that on December 31, 2010, he was in an automobile with two other individuals. They stopped at a recycle center in Trujillo Alto. There, according to Plaintiff E.F.J., the two other individuals robbed the recycling center, while he stayed in the car. Plaintiff E.F.J. was allegedly unaware of the intent of the two other individuals (**Docket No. 1, p. ¶ 23**).

3) During the proceedings it was discovered that the Carolina State Attorney’s Office filed criminal charges against one of those two men. He is called Amaury Méndez Rosado

and he pleaded guilty for a number of criminal offenses including robbery and various weapons law infractions.

4) It was also discovered that the Carolina Solicitor for Minors Office filed criminal charges against Plaintiff E.F.J. for the same facts as Mr. Méndez Rosado.

5) Indeed, during the deposition of Plaintiff E.F.J., he testified having entered guilty pleas for the criminal complaints connected to the facts of the instant case.

6) For that reason, the Defendants attempted to gain access to Plaintiff E.F.J.'s criminal file which is under the custody of the Tribunal for Minors of the Carolina Judicial District. For this task, Defendants obtained Plaintiff E.F.J.'s consent to divulge the juvenile file for this litigation. Additionally, Defendants requested an order from this Court (**Docket No. 120**), which was granted (**Docket No. 121**).

7) Plaintiff E.F.J.'s criminal file has since been delivered to the Court.

8) On March 14, 2016, appearing Defendants request permission to inspect the Plaintiff E.F.J.'s criminal file (**Docket No. 248**). However, the Court has not ruled on the motion.

9) On June 23, 2016, the Defendants asked again for permission to inspect the Plaintiff E.F.J.'s criminal file (**Docket No. 249**). However, the Court has not ruled on the motion either.

10) Defendants are mindful that this is the third time they have sought to review Plaintiff's criminal file. They certainly wish not to irritate the Court.

11) However, they must insist on inspecting the Plaintiff's criminal file because therein lay the keys to a defense under Heck v. Humphrey, 512 U.S. 477 (1994). It is only in furtherance of appearing Defendants interests that the undersigned insists on obtaining the

criminal file. The undersigned is ethically bound to defend his clients in the best possible manner and he reasonably believes that the criminal file will prove to be crucial in this regard.

12) Defendants need to inspect the file in order to file a Reply to Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment in Civil Case No. Fernández-Jorge v. Galarza-Soto, 14-1590 (GAG). That case concerns the same facts as the instant case. However, it is against Defendants Julio Galarza-Soto and Juan Ortiz-Cruz.

13) On another note, that information will also have an impact in the instant case if it were to proceed to trial.

14) In light of the above, appearing Defendants very respectfully request the Court to permit Counsel for Defendants to inspect the aforementioned criminal file and to photocopy the pertinent material found therein.

WHEREFORE, Appearing Defendants respectfully request the Court to permit Counsel for Defendants to inspect the aforementioned file and to photocopy the pertinent material found therein.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico on this 8th day of July 2016.

IT IS HEREBY CERTIFIED that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all parties.

CÉSAR MIRANDA RODRÍGUEZ
Secretary of Justice

MARTA ELISA GONZÁLEZ Y.
Deputy Secretary of Justice
in Charge of Litigation

WANDYMAR BURGOS VARGAS
USDC-PR No. 223502
Director
Federal Litigation Division
Department of Justice

S/Jaime J. Zampierollo-Vilá
JAIME J. ZAMPIEROLLO-VILÁ
USDC-PR No. 228710
Federal Litigation Division
Department of Justice
P.O. Box 9020192
San Juan, PR 00902-0192
Office (787) 721-2900 2650/2646
Fax. (787) 723-9188
Email: jzampierollo@justicia.pr.gov